IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

Crl.MC.No. 3366 of 2006()

AGAINST THE JUDGEMENT/ORDER IN BA.5825/2006 Dated 05/10/2006
CMP.6705/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM
CRIME NO.579/06 OF KOTTIYAM POLICE STATION.

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PETITIONER: COMPLAINANT

STATE OF KERALA, REPRESENTED ,
THROUGH THE CIRCLE INSPECTOR OF POLICE,
CHATHANNOOR POLICE STATION, BY THE ADDITIONAL
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

RESPONDENTS: ACCUSED NO.2 AND 3

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1. PRAMOD BABU, S/O.SANEESH BABU,
RESIDING AT PRAMOD BHAVAN,
KOOTIKKADA P.O., THATTAMALA, KOLLAM.

2. SANOJ, S/O.RADHAKRISHNAN,
RESIDING AT PULLUVAN PARAMBU,
KOOTTIKKADA P.O., THATTAMALA, KOLLAM.

BY ADV. SRI.M.K.DAMODARAN (SR.)
SRI.SOJAN MICHEAL

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 23/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3366 OF 2006

Dated this the 23rd day of January, 2007

ORDER

The State is the petitioner. The State wants the regular bail granted in favour of the respondents i.e., accused 2 and 3 to be cancelled. The respondents (accused 2 and 3) along with 23 other persons face the allegations, inter alia, under Secs.326 and 307 read with Sec.149 of the IPC. The petitioners approached this Court with an application for anticipatory bail. This Court directed the respondents to appear before the Investigating Officer, make themselves themselves available for interrogation and to seek bail from the learned Magistrate when they are produced after such arrest and interrogation. In compliance with the said order, the respondents appeared before the Investigating Officer, they were arrested and interrogated and later produced before the learned Magistrate. By the impugned order, a copy of which is produced as Annexure-II, the learned Magistrate released the respondents on bail subject to very strict and

stringent conditions which are enumerated as condition Nos.1 to 7 in the impugned order.

2. The State has come with this petition with a prayer that the order granting bail may be set aside. After discussions at the Bar, it is fairly submitted by the learned Public Prosecutor that the co-accused have already been enlarged on bail. The conditions imposed on the respondents are continuing to remain in force now. There is no allegation that the respondents have abused the freedom/liberty granted to them. The offences alleged, I must note, is primarily under Secs.326 and 307 read with Sec.149 of the IPC. The order is not one without jurisdiction certainly. The discretion has been exercised by the learned Magistrate. The application for bail was considered on merits as per the specific directions of this Court in the order passed in the application for anticipatory bail. In any view of the matter, I am not satisfied that compelling reasons exist which justify the interference with the impugned order. It is well settled that considerations which apply at the time of the grant of bail are totally different from considerations which will appeal to a court when the prayer for cancellation of bail is considered. I am satisfied that the prayer to cancel the bail

cannot be considered favourably.

3. This petition is, in these circumstances, dismissed. Needless to say that the State shall be entitled to approach the courts for cancellation of bail if there be any specific allegation of misused/abused the freedom/liberty granted to the respondents.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge